

Attorney Docket No. RSW920040131US1  
Serial No. 10/711,981  
Response to Office Action mailed 1/12/07

### III. REMARKS

**A. The specification.** The examiner objected to informalities in the specification amendments because the paragraph numbers were incorrect. The amendments are submitted with the correct paragraph numbers.

**B. Claim Rejections 35 USC §112.** The examiner rejected claims 1-3 because the feature “a decision to reallocate the resource from the standard customer to the premium customer is based on a plurality of customer information” did not have support in the specification. Applicant has deleted “a plurality of customer information from claims 1-3.”

**C. Claim Objections.** The examiner objected to claims 1-3 based on informalities. Applicant has amended claims 1-3 to address the informalities cited by the examiner.

**D. Claim Rejections 35 U.S.C §103(a).**

1. The examiner rejected claims 1-3 under 35 USC 103(a) as being unpatentable over Gandi et al. (US 2005/0120102) in view of Sankaranarayan et al. (US 6,799,208) and further in view of Rolie et al. (US 2005/0240668). Applicant has amended claims 1-3 to distinguish over the art cited by the examiner. Specifically, applicant has (1) placed the claimed invention specifically in a “shared web application environment in which a web application server retrieves data from a database and transmits data in the form of a web page to a plurality of consumer computers,” (2) specified that the profiling tool collects “a retrieval rate from a web application server to a database, a time to request and return a displayed web-page, and a number of users that an application can manage,” and (3) specified that the decision to re-allocate the resource from the standard customer to the premium customer is based on the retrieval rate from a web application server to a database, the time to request and return a displayed web-page, the number of users that an application can manage” as well as the factors previously recited.

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Support for the amendments can be found in the specification paragraphs [0025, lines 8-11], [0026, line 15-18], and paragraph [0028, lines 2-3].

2. The examiner rejected claims 1-3 under 35 USC 103(a) as being obvious over Gandi et al. (US 2005/0120102) in view of Sankaranarayan et al. (US 6,799,208) and further in view of Childress et al. (US 2005/0256946). Applicant submits that the amended claims distinguish over Childress for the reasons set forth above. Additionally, applicant submits that Childress is disqualified under 35 USC ¶103(c) because the subject matter and the claimed invention were, at the time the claimed invention was made, subject to an obligation of assignment to the same entity, International Business Machines Corporation. See item (73) United States Publication 2005/0256946 (Assignee: International Business Machines Corporation) and attached USPTO Notice of Recordation of Assignment for this application.

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BRIEF: ASSIGNMENT OF ASSIGNEE'S INTEREST (SEE DOCUMENT FOR DETAILS).  
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